# UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States Department of Housing and Urban Development, on behalf of	) ) )
Grayce M. Del Vecchio,	)
Charging Party,	)
v. Coachlight Square on the Hudson Condominium Association,	) ) FHEO No. 02-08-0614-8 ) ) )
Respondent.	) ) )

# CHARGE OF DISCRIMINATION

#### **JURISDICTION**

- 1. On May 4, 2008, Complainant Grayce M. Del Vecchio filed a verified complaint with the United States Department of Housing and Urban Development ("HUD") alleging that Respondent refused to permit her to make a reasonable modification to existing premises in violation of the Fair Housing Act, as amended in 1988, 42 U.S.C. §§ 3601 et seq. ("Act"). In particular, Complainant, a wheelchair user, alleged that Respondent refuses to allow her to install a ramp in her entry way, which she needs so that she can enter and exit her home.
- 2. The Act authorizes the Secretary of HUD to issue a Charge of Discrimination ("Charge") on behalf of aggrieved persons following an investigation and determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g) (1) and (2). The Secretary has delegated to the General Counsel (54 Fed. Reg. 13121), who has re-delegated to the Regional Counsel (67 Fed. Reg. 44234), the authority to issue such a charge, following a determination of reasonable cause.
- 3. The Director of the Office of Fair Housing and Equal Opportunity ("FHEO") for the New York/New Jersey Region, on behalf of the Assistant Secretary for FHEO, has authorized this Charge because he has determined after investigation that reasonable

cause exists to believe that a discriminatory housing practice has occurred. HUD's efforts to conciliate the complaint were unsuccessful. See 42 U.S.C. § 3610(b).

# LEGAL AUTHORITY IN SUPPORT OF CHARGE

4. It is unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling or in the provision of services or facilities in connection with such a dwelling, because of a disability of that person or a person residing in that dwelling after it is sold. 42 U.S.C. § 3604(f) (2) (A) and (B). Discrimination includes a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises. U.S.C. § 3604(f) (3) (A).

#### **PARTIES:**

- 5. Complainant is a mobility impaired, frail, elderly woman. Since April 2008, she has required the use of a wheelchair to leave her home because her ability to ambulate has been steadily deteriorating. She lives alone at 116 Coachlight Square, Montrose, NY, a condominium unit that she owns and that is part of a condominium development known as Coachlight Square on the Hudson.
- 6. Respondent is a condominium association of residents who own units at Coachlight Square on the Hudson and share common areas. Coachlight Square has 210 garden style condominium units.

## FACTUAL ALLEGATIONS IN SUPPORT OF CHARGE:

- 7. Because of heart disease, arthritis, diabetes, spinal fusion, and nephritis, Complainant cannot walk without assistance. Inside her home, she uses a walker or cane, but outside she requires a wheelchair.
- 8. Complainant's unit has a number of steps at its entryway. Because of those steps, Complainant cannot leave her condominium or return to her condominium without assistance. It has become increasingly difficult for Complainant to go to her many doctor appointments or visit her sister who lives in a nursing home.
- 9. On April 8, 2008, Complainant wrote Respondent, requesting permission to have a ramp installed at the entrance of her unit so she could have barrier-free access to her condominium.
- 10. On April 25, 2008, Respondent replied, denying Complainant's request because a ramp would adversely affect the common element and esthetics of the Condominium. Respondent also stated it was "not obligated to install, nor will it permit the installation of ramps at unit entrances."

Without the ramp, Complainant is often a prisoner in her home, and believes that her life is in danger should an emergency arise. She has become severely depressed and frustrated due to her isolation and loss of independence.

## **FAIR HOUSING ACT VIOLATIONS:**

12. Respondent violated the Act because it refused to permit reasonable modifications to Complainant's existing premises, although such modifications are necessary to afford Complainant full enjoyment of her residence.

## **CONCLUSION:**

WHEREFORE, the Secretary of HUD, through the Office of General Counsel and pursuant to 42 U.S.C. § 3610(g) (2) (A), hereby charges Respondent with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f) (2) and prays that an order be issued that:

- 1. Declares that the discriminatory housing practices of Respondent as set forth above violate the Fair Housing Act, 42 U.S.C. §§3601-3619;
- 2. Enjoins Respondent, its agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating because of handicap against any person in any aspect of the rental, sale, use or enjoyment of a dwelling pursuant to 42 U.S.C. § 3612 (g) (3);
- 3. Compels Respondent, its agents, employees, and successors, and all other persons in active concert or participation with them, to permit Complainant to have a ramp installed at the entrance of her unit.
- 4. Awards such damages pursuant to 42 U.S.C. §3612(g) (3) as will fully compensate Complainant for emotional distress and inconvenience caused by Respondent's discriminatory conduct;
- 5. Awards a civil penalty against the Respondent for violation of the Act, pursuant to 42 U.S.C. §3612(g) (3); and
- 6. Awards such additional relief as may be appropriate under 42 U.S.C. §3612(g) (3).

# Respectfully submitted,

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